

DILLON & NASH, LTD.
Attorneys at Law

David C. Dillon
Mary Ellen Nash

November 24, 2009

Surface Transportation Board
Chief Section of Administration
395 E. Street S.W.
Washington, D.C. 20423

FEE RECEIVED

NOV 25 2009

**SURFACE
TRANSPORTATION BOARD**

FD 35329

Re: Filing of Verified Notices of Exemption
Under 49 C.F.R. §1150.31 – A & R
Terminal Railroad

Dear Section Chief Brown:

Our office represents A & R Terminal Railroad. I have enclosed herewith Verified Notices of Exemption Under 49 C.F.R. §1150.31. I have also enclosed a check in the amount of \$1,800.00 for the filing fee.

If you have any questions please feel free to contact me. Thank you for your assistance in this matter.

Very truly yours,

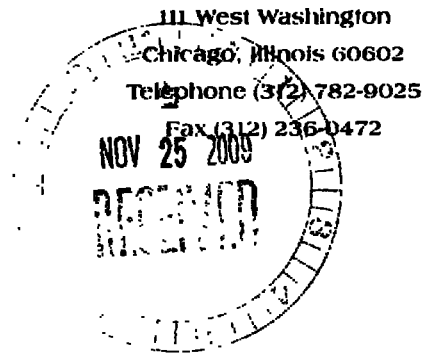
David C. Dillon
David C. Dillon *lv*

Enclosures

FILED
NOV 25 2009
**SURFACE
TRANSPORTATION BOARD**

ENTERED
Office of Proceedings
NOV 25 2009
Part of
Public Record

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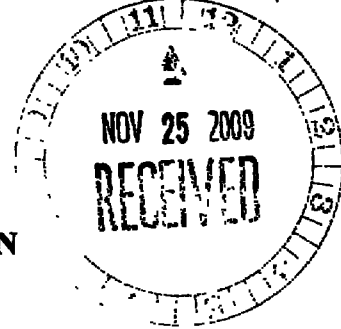


**BEFORE THE
SURFACE TRANSPORTATION BOARD**

A & R Terminal Railroad

Office of the Secretary
NOV 25 2009
Part of
Public Record

Finance Docket Number: FD 35329



**VERIFIED NOTICES OF EXEMPTION
UNDER 49 C.F.R. § 1150.31**

By: David C. Dillon
Dillon & Nash, Ltd.
111 West Washington Street
Suite 719
Chicago, Illinois 60602
(312) 782-9025

A & R Terminal Railroad

*Attorney for Applicant
in Finance Docket No. 35329*

Applicant in Finance Docket No. FD 35329

DATE FILED: November 24, 2009

FILED
NOV 25 2009
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
NOV 26 2009
SURFACE
TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

A & R Terminal Railroad Company)	
)	
)	Finance Docket Number: FD 35329

**VERIFIED NOTICE OF EXEMPTION
UNDER 49 C.F.R. § 1150.31**

Pursuant to 49 C.F.R. § 1150.31, *et. seq.* and 49 U.S.C. § 10502(a), A & R Terminal Railroad Company (ARTR), a noncarrier, hereby provides verified notice of exemption from 49 U.S.C. § 10901 for ARTR's acquisition by operating agreement from A & R Logistics, Inc. (A&R), and operation pursuant to operating agreement with A&R of approximately 6.25 mile(s) of existing railroad right-of-way and trackage and transloading facilities owned by A&R, in Morris, Illinois ("Morris Transload Facility trackage"). The Morris Transload Facility trackage is more specifically described and depicted in Appendix 1-A (description) and Appendix 1-B (map) attached to this notice.

THE A & R TERMINAL RAILROAD COMPANY TRackage IS A LINE OF RAILROAD THAT QUALIFIES FOR THE CLASS EXEMPTION FROM 49 U.S.C. § 10901, RATHER THAN TRACK EXCEPTED FROM BOARD ACQUISITION AND OPERATION AUTHORITY UNDER § 10906

A & R Logistics, Inc. (A&R) owns the Morris Transload Facility trackage. The trackage is used in conjunction with interchanging to and from Canadian National Railroad, carloads of outbound grains and related products as well as plastic pellets and related products after transloading,

and inbound carloads for transloading into trucks for final delivery.

There is currently 33,000 linear feet of track located on the Morris Transload Facility. There are plans to phase in additional track that A & R Terminal Railroad will operate.

In those circumstances, the Morris Transload Facility trackage is properly considered to be a line of railroad under 49 U.S.C. § 10901 pursuant to the Board's tenant-use test, rather than spur, switching or side tracks excepted from Board authority over their acquisition and operation by virtue of 49 U.S.C. § 10906. The tenant-use test is described in the Board's decision denying reconsideration in *Effingham Railroad Company - Petition for Declaratory Order - Construction at Effingham, IL*, STB Docket No. 41986 and embraced proceedings, 1998 STB LEXIS 253, decision served September 18, 1998; *aff'd sub nom. United Transp. Union v. Surface Transportation Board.*, 183 F.3d 606 (7th Cir. 1999).

In that case, as here pertinent, Agracel Corporation transloaded beer from rail to truck at a warehouse that it operated in an industrial park at Effingham, IL. Agracel owned approximately 206 feet of right-of-way and track that extended between its warehouse and trackage owned and operated by Conrail. Previously, Conrail had operated over the Agracel trackage to provide service to Agracel. It was proposed that Effingham Railroad Company (ERRC), a noncarrier, substitute for Conrail as provider of the rail service over the Agracel trackage. ERRC filed a notice of exemption under 49 C.F.R. § 1150.31 for its operation over that trackage. The United Transportation Union (UTU) contended that the Board lacked authority over the proposed operation because Agracel trackage is spur, switching or side track excepted from Board operation authority under 49 U.S.C. § 10906.

In finding that the Agracel trackage was a line of railroad under 49 U.S.C. § 10901, the Board said (1998 STB LEXIS 253, at 8-9 (emphasis in original)):

...(I)n those cases where a tenant railroad's intended use of a track segment is different from the use made by the railroad owning the track, we have determined that the tenant's use, rather than the character of the trackage itself, is controlling with regard to its own operations, subject to consideration of the purpose and effect of the construction under *Texas & Pacific* (citations omitted).

In the initial notice, even under its new approach, ERRC became the operator of a line of track connecting Conrail to the site of the industrial park. Conrail clearly had operated this short track segment as an exempt siding or spur. However, because it was ERRC's initial railroad operation, this track segment became ERRC's entire line of railroad and was not, as to ERRC, a siding or spur. This small piece of trackage initiated ERRC's service from a connection or interchange point with Conrail to a shipper's facility within the industrial park. Thus ERRC's becoming the operator was the proper subject of the initial notice of exemption and was not statutorily exempt under section 10906.

It is apparent from the Board's decision in that case that the tenant-use test also applies when a new rail carrier is using trackage pursuant to an operating agreement rather than a lease, and when the prior use of the track was by a third-party carrier rather than by the shipper-owner of the trackage. In upholding the Board's decision in that case, the reviewing court held that it was reasonable for the Board to classify the trackage by virtue of the tenant's use. *United Transp. Union vs. Surface Transportation Bd.*, *supra*. 193 F.3d at 614. *Accord: Chicago Rail Link LLC - Lease & Oper. - Union Pacific R.R. Co.*, 2 S.T.B. 534 (1997), *aff'd sub nom. United Transp. Union - Illinois v. Surface Transp.*, 169 F.3d 474 (7th Cir. 1999).

Inasmuch as the subject transaction will be ATRR's initial railroad acquisition, and the Morris Transload Facility trackage will constitute the entire line of railroad of ATRR, it follows that the Morris Transload Facility trackage is a line of railroad under 49 U.S.C. § 10901, rather than spur, switching or side tracks excepted from Board acquisition and operation authority by virtue of 49 U.S.C. § 10906.

INFORMATION REQUIRED BY 49 C.F.R. § 1150.33

(a) The full name and address of the applicant;

The full name and address of the applicant in Finance Docket Number 35329 is A & R Terminal Railroad Company, 8440 South Tabler Road, Morris, Illinois, 60450.

(b) The name, address, and telephone number of the representative of the applicant who should receive correspondence;

ARTR representative is David C. Dillon, Dillon & Nash, Ltd., 111 West Washington Street, Suite 719, Chicago, Illinois, 60602, 312-782-9025.

(c) A statement that an agreement has been reached or details when an agreement will be reached;

An agreement between A & R Logistics, Inc. and A & R Terminal Railroad Company concerning the Morris Transload Facility trackage will be reached within thirty (30) days, and an agreement in principle has been reached. (A copy of a draft Operating Agreement (or Lease) is provided herewith.)

(d) The operator of the property;

ARTR will be the operator of the property.

(e) A brief summary of the proposed transaction, including:

(1) The name and address of the railroad transferring the subject property,

The above entity in Finance Docket Number 35329 is A & R Logistics, Inc., a non-railroad corporation, 8440 South Tabler Road, Morris, Illinois, 60450.

(2) The proposed time schedule for consummation of the transaction,

The operating agreement and operation are proposed to be consummated prior to January 1, 2010, provided that this notice of exemption has been filed at least fifteen days prior to that date.

(3) *The mile-posts of the subject property, including any branch lines, and*

The Morris Transload Facility trackage is not described by milepost numbers. That trackage is described and depicted in Appendix 1-A and 1-B attached to this Notice.

(4) *The total route miles being acquired;*

A total of approximately 33,000 feet/6.25 mile(s) of trackage is to be operated under an operating agreement.

(f) *A map that clearly indicates the area to be served, including origins, termini, stations, cities, counties, and States:*

The required map is attached to this Notice as Appendix 1-B.

(g) *A certificate that applicant's projected revenues do not exceed those that would qualify it as a Class III carrier.*

The required certificate is attached to this Notice as Appendix 2.

CAPTION SUMMARY

A caption summary required by 49 C.F.R. § 1150.34 for Finance Docket Number FD34808 is attached to this Notice as Appendix 3.

ENVIRONMENTAL AND HISTORIC REPORT

The proposed acquisition and operation do not require environmental and historic reporting.

See 49 C.F.R. § 1105.6(c)(2)(i) and 49 C.F.R. § 1105.8(b)(1).

LABOR PROTECTION

Pursuant to 49 U.S.C. § 10901(c), labor protection requirements do not apply to this transaction.

VERIFICATION

The verification is attached to this Notice as Appendix 4.

CONCLUSION AND REQUESTED RELIEF

WHEREFORE, within 30 days of the filing of this Notice, the Director of the Board's Office of Proceedings should publish notices in the Federal Register of the filing of notices of exemption in Finance Docket No. 35329. See 49 C.F.R. § 1150.32(b).

Respectfully submitted,

By: David C. Dillon
Dillon & Nash, Ltd.
111 West Washington Street
Suite 719
Chicago, Illinois 60602
(312) 782-9025

A & R Terminal Railroad Company

*Attorney for Applicant
in Finance Docket No. FD 35329*

Applicant in Finance Docket No. FD 35329

DATE FILED: November 24, 2009

Finance Docket Number: FD 35329

Appendix 1-A

LENGTH OF A & R TERMINAL RAILROAD
MORRIS TRANSLOAD FACILITY

Total Track: 33,000 linear feet = 6.25 miles of track

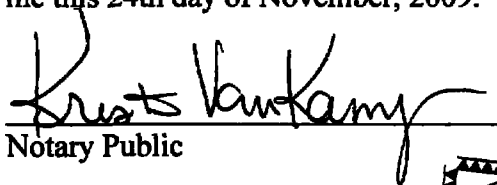
CERTIFICATION UNDER 49 C.F.R. § 1150.33(g)

A & R Terminal Railroad hereby certifies under 49 C.F.R. § 1150.33(g), that the projected revenues from the acquisition and operation proposed in this matter do not exceed those that would qualify it as a Class III rail carrier.

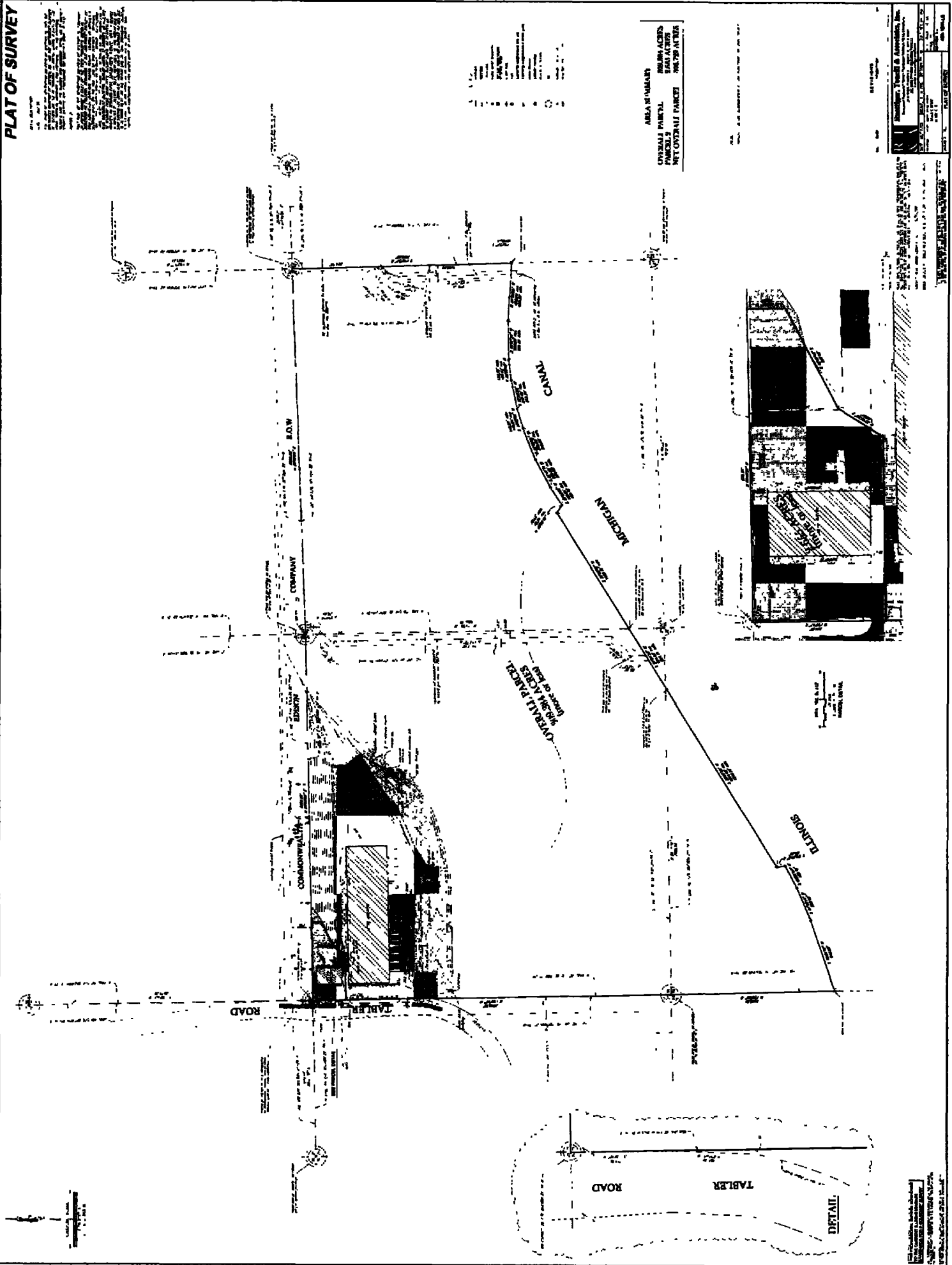


David C. Dillon
*Authorized Representative of
A & R Terminal Railroad*

SUBSCRIBED AND SWORN TO before
me this 24th day of November, 2009.


Notary Public

PLAT OF SURVEY



CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

Notice of Exemption

FINANCE DOCKET NO. FD 35329

**A & R TERMINAL RAILROAD COMPANY
- ACQUISITION EXEMPTION -
RAIL LINE OF A & R LOGISTICS, INC.
AT MORRIS TRANSLOAD FACILITY, MORRIS, ILLINOIS**

A & R Terminal Railroad Company (ARTR), has filed a Notice of Exemption to acquire and operate from A & R Logistics, Inc., a non-carrier, approximately 6.25 miles of right-of-way and trackage at A & R Logistic, Inc.'s Morris Transload Facility in Morris, Illinois. Comments must be filed with the Board and be served on ARTR's representative, David C. Dillon, Dillon & Nash, Ltd., 111 W. Washington Street, Suite 719, Chicago, IL, 60602, (312) 782-9025.

This Notice is filed under 49 C.F.R. § 1150.31. If the Notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. §10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

By the Board


(Seal)

Vernon A. Williams, Secretary

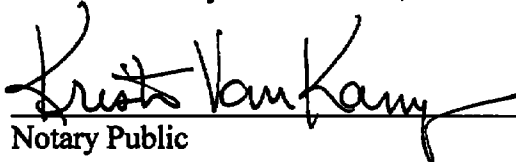
VERIFICATION

STATE OF ILLINOIS)
)
COUNTY OF COOK)

David C. Dillon, being duly sworn, states that he is an attorney for A & R Terminal Railroad Company; that he is familiar with the factual allegations made in the foregoing Notice of Exemption on behalf of ARTR; and that such allegations are true as stated.


David C. Dillon, Attorney for
A & R Terminal Railroad Company

SUBSCRIBED AND SWORN to before
me this 24th day of November, 2009.


Notary Public



OPERATING AGREEMENT
OF
A&R TERMINAL RAILROAD, LLC

This Operating Agreement (as amended from time to time, this "Agreement") is made and entered into as of October 20, 2009, in Morris, Illinois, by and between A&R Terminal Railroad, LLC (the "Company") and the sole "Member" whose signature appears on the attached signature page. In consideration of the mutual promises contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree that the terms and conditions set forth in this Agreement shall govern the management, operation and affairs of the Company.

ARTICLE I
DEFINED TERMS

The following capitalized terms, as used in this Agreement, shall have the following meanings. Terms defined elsewhere in this Agreement shall have the meanings so given to them.

"Act" means the Illinois Limited Liability Company Act, 805 ILCS 180/1-5 *et seq.*, as amended from time to time, or the corresponding provisions of subsequent superseding Illinois law.

"Code" means the Internal Revenue Code of 1986, as amended from time to time, or the corresponding provisions of any subsequent superseding federal law.

"Manager" means Jeffrey J. O'Connor.

"Person" means any individual, corporation, partnership, association, limited liability company, trust, joint venture, estate or other entity.

"Treasury Regulation" means the income tax Treasury Regulations, including any temporary Treasury Regulations, promulgated and as amended from time to time under the Code.

ARTICLE II
FORMATION OF THE COMPANY

2.1 *Formation and Purpose.* The Company has been organized as an Illinois limited liability company through the filing of executed Articles of Organization with the Illinois Secretary of State (as amended from time to time, "Articles of Organization") pursuant to the Act to engage in any and all lawful activities for which limited liability companies may be organized under the Act.

2.2 *Name.* The name of the Company is set forth in the heading of this Agreement. The Company may do business under that name and any other name which the Manager selects.

2.3 *Term.* The Company's existence commenced on the date that its Articles of Organization were filed with the Illinois Secretary of State, and it shall continue perpetually, unless the Company is earlier dissolved pursuant to this Agreement or the Act.

2.4 *Principal Place of Business.* The Company's principal place of business shall be located at such place as the Manager may from time to time designate.

2.5 *Registered Agent and Office.* The Company's registered agent and registered office is as set forth in its Articles of Organization, and the Manager may from time to time change the registered agent and registered office of the Company.

ARTICLE III
POWERS AND DUTIES OF THE MANAGER AND OFFICERS

3.1 *General Power of the Manager.* As further set forth in this Agreement, the Company shall be managed by the Manager. Subject only to the terms of this Agreement, the Manager shall have the full and exclusive authority, power and discretion to manage and control the business, properties and affairs of the Company without the Member's approval or consent, including, without limitation, the right and duty, for Company purposes to: acquire real and personal property; purchase services; sell, exchange, lease, license, mortgage, encumber, finance, construct, assign or otherwise deal in or with any and all assets of the Company; borrow funds for and on behalf of the Company; make expenditures outside the ordinary course of the Company's business; delegate rights and powers of the Manager to the extent permitted under this Agreement and the Act; sell all or substantially all of the Company's assets; and to execute all documents and instruments which, in the discretion of the Manager, are necessary or appropriate to effectuate the foregoing.

3.2 *Resignation and Removal of a Manager.* The Manager may resign at any time upon written notice to the Member. The Member may remove the Manager at any time, with or without cause. Any vacancy occurring in the position of Manager shall be filled by the Member, and any reference in this Agreement to the "Manager" shall thereafter mean such Person.

3.3 *Tax Matters Person.* The Manager shall serve as the Tax Matters Person (as that term is defined in Code Section 6231) of the Company.

3.4 *No Exclusive Duty.* The Manager shall not be required to manage the Company as the Manager's sole and exclusive function and a Manager may have other business interests and engage in other activities in addition to those relating to the Company. Except as otherwise agreed, neither the Company nor the Member shall have any right to share or participate in such other investments or activities of the Manager or to the income or proceeds derived therefrom.

3.5 *Limitation on Liability.* The Manager (which for purposes of this Section 3.5 and Section 3.6 below shall include its directors, officers, shareholders, members, managers, employees, agents and affiliates) shall perform the duties of the Manager in a fiduciary capacity, in good faith, in a manner which the Manager believes to be in the best interests of the Company and the Member, and with such care as an ordinarily prudent individual in a like position would use under similar circumstances. The Manager shall not be liable to the Company or to the Member for any loss or damage suffered by the Company or the Member relating to the Company, unless such loss or damage is the result of fraud, deceit, theft, misappropriation, embezzlement, willful misconduct, gross negligence or the breach of the Manager's fiduciary duty to the Company and the Member, or to the extent (but only to the extent) that such liability may not be waived, modified or limited under applicable law, but in all events the provisions of this paragraph shall be construed to the fullest extent permitted by law.

3.6 *Indemnification.* The Company shall indemnify the Manager for all acts performed by the Manager in respect of the Company, and any other limited liability company, corporation, partnership, association, trust, joint venture, estate or other entity in respect of which the Manager served at the request of the Company as a director, officer, manager, employee or agent thereof to the full extent permitted by the Act, but in no event for fraud, deceit, theft, misappropriation, embezzlement, willful misconduct, gross negligence or breach of the Manager's fiduciary duty to the Company and the Members, relating to the Company.

3.7 *Officers of the Company.* The Manager may from time to time appoint one or more persons to serve as officers of the Company, in such capacities and with such delegated rights and powers as the Manager may approve; provided, however, that no such officer shall have any different or greater rights and powers than the Manager has under this Agreement. Officers appointed by the Manager shall

have limited liability and be indemnified by the Company for all authorized acts to the same extent as if they had acted as the Manager under Sections 3.5 and 3.6 above.

ARTICLE IV

MEMBER

4.1 *Limitations on Members.* The Member is not an agent of the Company solely by virtue of being a member, and the Member has no authority to act for or bind the Company solely by virtue of being a member. The provisions of this Section 4.1 supersede any authority granted to the Member pursuant to Section 15-1 of the Act.

4.2 *No Duty or Services Owed by Member.* Except as otherwise provided in this Agreement, the Member owes no duty, and shall not be required to provide any services, to the Company solely by reason of being the Member.

4.3 *Other Activities of Members.* Except as otherwise provided in this Agreement, the Member shall not be restricted in any way from engaging in or conducting any other business interest or activity and shall not be accountable to the Company with respect to that business interest or activity even if it competes with the business of the Company. Except as otherwise agreed, the Company shall have no right to share or participate in such other investments or activities of a Member or to the income or proceeds derived therefrom.

4.4 *Indemnification.* The Company shall indemnify the Member for all authorized acts performed by the Member in respect of the Company, and any other limited liability company, corporation, partnership, association, trust, joint venture, estate or other entity in respect of which the Member served at the request of the Company as a director, officer, manager, employee or agent thereof to the full extent permitted by the Act, but in no event for fraud, deceit, theft, misappropriation, embezzlement, willful misconduct or gross negligence, relating to the Company.

ARTICLE V

CAPITAL CONTRIBUTIONS AND ACCOUNTS

5.1 *Capital Accounts.* As part of the Company's books of account, an individual "Capital Account" shall be maintained for the Member in accordance with sound accounting principles, consistently applied. The Capital Account of the Member shall be maintained in compliance with the Code and applicable Treasury Regulations, and provisions of this Agreement relating to the maintenance of the Member's Capital Account shall be interpreted and applied in a manner consistent therewith.

5.2 *Capital Contributions.* The initial capital contribution of the Member is as set forth on the books and records of the Company. The Member shall not be required to contribute any additional capital to the Company, and the Member shall not have any personal liability for any obligation of the Company. Except as otherwise provided in this Agreement, the Member shall not have the right to receive the return of its capital contribution.

5.3 *Waiver of Action for Partition.* The Member hereby irrevocably waives any right to maintain an action for the partition of Company property.

ARTICLE VI

PROFITS, LOSSES AND DISTRIBUTIONS

The Company's net profits and losses, and all related items of income, deduction, gain, loss and credit, shall be allocated to the Member. Except as provided in Section 8.2 below, distributions to the Member shall be made at such times and in such amounts as determined from time to time by the Manager; provided, however, that no distribution or return of Capital Contribution shall be made if, after

doing so, the Company would not be able to pay its debts as they become due in the ordinary course of business or the net assets of the Company would be less than zero.

ARTICLE VII

ACCOUNTING AND TAX MATTERS; BOOKS AND RECORDS OF THE COMPANY

7.1 *Accounting Period.* The Company's fiscal year shall be its taxable year. Unless changed by the Manager, each fiscal year of the Company shall begin on January 1 and end on December 31.

7.2 *Bank Accounts.* All funds of the Company shall be deposited in one or more bank accounts maintained in the Company's name. The Manager shall determine the institutions at which the accounts shall be opened and maintained, the types of accounts, and the Persons who shall have signatory authority with respect to the accounts and the funds therein.

7.3 *Title to Company Property.* All real and personal property acquired by the Company shall be acquired and held by the Company in its name.

7.4 *Books and Records.* The Company, at its expense, shall maintain at its principal place of business complete and accurate books and records relating to the operations and transactions of the Company. At a minimum, such books and records shall include the following:

(a) A current list of the full name and last known address of the Member, setting forth the date on which the Member became a member, the Member's Capital Contribution, and a description and statement of the agreed upon value of other property or services the Member has contributed or has agreed to contribute in the future;

(b) A copy of the Company's Articles of Organization as amended or restated, together with executed copies of any powers of attorney pursuant to which any articles, applications or certificates have been executed;

(c) Copies of the Company's federal, state and local income tax returns and reports, if any, for the three (3) most recent years;

(d) Copies of the Company's financial statements, if any, for the three (3) most current years; and

(e) A copy of this Agreement and any amendments of this Agreement.

7.5 *Tax Status and Elections.* The Company shall be treated as a partnership for federal, state and local income tax purposes, rather than as an association taxable as a corporation. Initially, the Company shall have only one member, and as such will be a disregarded entity separate from its sole member for income tax purposes. The Manager shall have the authority to make all Company elections permitted under the Code.

7.6 *Tax Returns and Reports.* As soon as practicable after the end of each fiscal year of the Company, the Manager shall cause to be sent to the Member tax information concerning the Company which is necessary for the preparation of the Member's income tax returns for that year.

ARTICLE VIII

DISSOLUTION AND TERMINATION

8.1 *Events of Dissolution.* The Company shall be dissolved upon a determination of the Manager that dissolution is appropriate or an event causing dissolution by operation of law.

8.2 *Winding Up, Liquidation and Distribution of Assets.* If the Company is dissolved, the Company shall fully comply with all legal requirements governing the winding up of its affairs and the final distribution of its assets. To this end, the Manager shall:

(a) Sell or otherwise liquidate all of the Company's assets as promptly as practicable, except to the extent that any such assets are to be distributed to the Member in kind;

(b) Allocate any profits or losses resulting from such sales to the Capital Accounts of the Member in accordance with Articles V and VI above;

(c) Discharge all liabilities of the Company, including, without limitation, liabilities to the Member if a creditor, to the extent permitted by law, other than liabilities to the Member for distributions, and establish such reserves as may be reasonably necessary to provide for contingent liabilities of the Company, which reserves shall be deemed to be an expense of the Company for purposes of determining the Capital Account of the Member; and

(d) Distribute the remaining assets to the Member in accordance with Article VI above.

8.3 *Termination.* Upon completion of the winding up, liquidation and distribution of the Company's assets, the Company shall be deemed terminated.

8.4 *Articles of Dissolution.* When all debts, liabilities and obligations of the Company have been paid, discharged or provided for, and when all remaining assets of the Company have been distributed, the Manager shall execute articles of dissolution in duplicate and cause the same to be filed with the Illinois Secretary of State. Upon such filing, the existence of the Company shall cease, except for the purpose of lawsuits and other proceedings and actions set forth in the Act.

ARTICLE IX MISCELLANEOUS

9.1 *Notices.* Any notice required or permitted under this Agreement shall be in writing and (i) delivered personally, (ii) sent by facsimile transmission, or (iii) sent by certified or registered mail, postage prepaid, return receipt requested. A notice delivered personally shall be deemed delivered when received. A notice sent by facsimile transmission shall be deemed delivered when sent during regular business hours, Monday through Friday, holidays excepted. A notice sent by certified or registered mail shall be deemed delivered two (2) business days after it is mailed. A notice addressed to the Member must be addressed to the Member's last known address as shown on the books and records of the Company. A notice to the Manager or the Company must be addressed to the Company's principal place of business.

9.2 *Governing Law; Jurisdiction and Venue.* This Agreement shall be interpreted in accordance with the internal laws of the State of Illinois, without regard to its principles on conflicts of laws. All disputes arising under or in connection with this Agreement shall be resolved and disposed of by the federal and state courts located in Cook County, Illinois, and the parties irrevocably consent to such personal jurisdiction and venue.

9.3 *Validity.* The provisions of this Agreement are intended to be interpreted and construed in a manner which renders them valid and enforceable. In the event that any provision of this Agreement is found to be invalid or unenforceable, such provision shall be deemed excised from this Agreement without affecting the validity or enforceability of any of the remaining provisions.

9.4 *Creditors.* None of the provisions of this Agreement shall be deemed to be for the benefit of, or be enforceable by, any creditor of the Company or of the Member.

9.5 *Entire Agreement.* This Agreement constitutes the entire agreement between the parties and supersedes all prior negotiations, representations, warranties, understandings and agreements between the

parties with respect to its subject matter. The failure of any party to require the performance of any provision of this Agreement shall not in any way affect its right thereafter to enforce such provision or any other provision of this Agreement. Except as otherwise provided herein, this Agreement may not be amended or rescinded except by a written instrument signed on behalf of the Company and the Member.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the first date set forth above.

MANAGER:

Jeffrey J. O'Connor

MEMBER:

A&R Logistics, Inc., an Illinois corporation

By: _____
Its: _____